

A **EDIAWE ESHILAMA CLINTON v. PP**
COURT OF APPEAL, PUTRAJAYA
AZIAH ALI JCA
ROHANA YUSUF JCA
AHMADI ASNAWI JCA
B [CRIMINAL APPEAL NO: B-05-285-10-2014 (NGA)]
15 SEPTEMBER 2015

C **CRIMINAL LAW:** *Dangerous Drugs Act 1952 – Section 39B(1)(a) – Trafficking in 685.9g methamphetamine – Appeal against conviction and sentence – Prima facie case – Whether established – Whether there were doubts as to identity of drug exhibits – Whether trial judge failed to judicially appreciate defence case – Whether defence of innocent carrier held any merit – Whether trial judge erred for failure to offer defence of passive possession – Failure to invoke presumption under s. 37(d) – Whether fatal – Whether conviction safe despite misdirection*

D **CRIMINAL PROCEDURE:** *Appeal – Conviction and sentence – Dangerous drugs – Trafficking – Whether there were doubts as to identity of drug exhibits – Whether trial judge failed to judicially appreciate defence case – Whether defence of innocent carrier held any merit – Whether trial judge erred for failure to offer defence of passive possession – Failure to invoke presumption under s. 37(d) – Whether fatal – Whether conviction safe despite misdirection*

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F The appellant was charged for trafficking in of 685.9g of methamphetamine, an offence under s. 39B(1)(a) of the Dangerous Drugs Act 1952 ('Act'). During a surveillance at the Kuala Lumpur International Airport ('KLIA'), SP2 had stopped the appellant who was pulling a luggage bag ('P29') heading towards the customs inspection area. Upon inspection of P29, a brown plastic packet containing drugs ('P16') was found and seized and handed over to the investigating officer. Upon analysis, the chemist confirmed that P16 contained the said dangerous drugs. At the end of the prosecution's case, the trial judge found that a *prima facie* case was established. The appellant was found to have exclusive possession, custody and control of the drugs when the evidence of prosecution's witnesses clearly showed that at the time of arrest, the appellant was pulling P29. In his defence, the appellant said that he had met one Tina Tabas and another person by the name of Cosmos when he was in Ghana. According to the appellant, Tina decided to follow the appellant back to Malaysia and that he saw Cosmos passing P29 to Tina which she had used to pack the appellant's clothes. The appellant submitted that he and Tina then took a flight to Malaysia and upon arrival at KLIA, Tina told the appellant to wait for her at the exit while she went to the toilet. The appellant was then detained while walking to the exit. The appellant further submitted that when the police found the drugs hidden in P29, the appellant had immediately told the police that P29 did not belong to him and

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raised a defence that he was an innocent carrier. At the conclusion of the trial, the trial judge found that the appellant's defence was a mere denial and fictitious and failed to raise a reasonable doubt on the prosecution's case. The appellant was thus convicted and sentenced to death. Hence, the appellant appealed. The issues that arose were (i) whether there were doubts as to the identities of the drug exhibits; (ii) whether the trial judge had failed to judicially appreciate the defence case; (iii) whether the trial judge erred for failure to offer a defence of passive possession; and (iv) whether there was a misdirection by the trial judge for failing to specifically invoke the presumption under s. 37(d) of the Act.

Held (dismissing appeal; affirming conviction and sentence)

Per Rohana Yusuf JCA delivering the judgment of the court:

- (1) As long as there is no break in the chain of evidence regarding the handling of the seized items or drugs exhibits, then the issue of the identity of the drugs would not arise. There was no break in the chain of evidence in this case because it was the same plastic packet *ie*, P16 that was identified by SP2 and SP8 who marked the drugs exhibits and identified them in court. It was also confirmed by the chemist that was the same drug exhibits, that was sent to her for analysis. On the evidence before the court, there was no break in the chain of evidence on the movement of the drug exhibits. (para 15)
- (2) The appellant had every opportunity to check for himself what he was carrying with him in P29. The trial judge had correctly made a finding of fact that the P29 was caught with the appellant thus with or without CCTV recording the fact of possession was proved. SP2 and SP8 were never informed of the existence of Tina in the course of investigation. The trial judge had no reason to disbelieve the evidence of SP2 and SP8. The trial judge had given consideration to all the issues raised in the defence and there was no reason to intervene with a decision made supported by evidence and with sound reasons. There was no merit found on the defence raised by the appellant that was an innocent carrier. (para 19)
- (3) A trial judge may amend or reduce a charge under s. 167 of the Criminal Procedure Code if on evidence another offence was disclosed instead. In any event, passive possession was not a defence but it was a finding that could be made on evidence before the court. There was no error on the part of the trial judge in his findings of trafficking hence the issue of a charge under possession did not arise in this case. (para 20)
- (4) The failure of the trial judge to state whether he relied on the presumption under s. 37(d) of the Act and on which overt act was he relying upon in s. 2 of the Act was a misdirection. However, not all misdirection is fatal. On the facts of this case, there was sufficient

- A evidence to establish possession when the appellant was caught with the bag containing drugs. He was seen carrying the bag with him. The luggage tag of P29 was under his name. This was sufficient to attract the presumption of possession and knowledge under s. 37(d) of the Act. The evidence was overwhelming that the appellant was carrying the bag
- B containing drugs which constituted the act of trafficking under s. 2 of the Act. The failure of the trial judge to state clearly in his judgment under which overt act, was not fatal on the facts of the present case. It was therefore appropriate for this court to exercise the powers pursuant to the proviso to s. 60 of the Courts of Judicature Act 1964. Thus, despite
- C the misdirection, the conviction was safe. (paras 23 & 24)

Bahasa Malaysia Translation Of Headnotes

- Perayu dituduh mengedar 685.9g Methamphetamine, satu kesalahan di bawah s. 39B(1)(a) Akta Dadah Berbahaya 1952 ('Akta'). Semasa pengawasan dijalankan di Lapangan Terbang Antarabangsa Kuala Lumpur ('KLIA'), SP2 telah menahan perayu yang sedang menuju ke arah kawasan pemeriksaan kastam sambil menarik sebuah beg bagasi ('P29'). Apabila P29 diperiksa, satu paket plastik berwarna perang yang mengandungi dadah ('P16') telah dijumpai, dirampas dan diserahkan kepada pegawai penyiasat. Setelah dianalisis, ahli kimia telah mengesahkan bahawa P16 mengandungi
- D dadah berbahaya tersebut. Di akhir kes pendakwaan, hakim bicara mendapati bahawa satu kes *prima facie* telah dibuktikan. Perayu didapati mempunyai milikan eksklusif, jagaan dan kawalan dadah apabila keterangan saksi-saksi pendakwaan dengan jelasnya menunjukkan bahawa pada masa perayu ditangkap dia sedang menarik P29. Dalam pembelaannya, perayu
- F menyatakan bahawa semasa berada di Ghana, dia telah berjumpa seorang yang bernama Tina Tabas dan seorang lagi yang dikenali sebagai Cosmos. Menurut perayu, Tina telah membuat keputusan untuk mengikut perayu balik ke Malaysia dan dia melihat Cosmos memberi P29 kepada Tina yang telah digunakan oleh Tina untuk memasukkan pakaian perayu. Perayu
- G menghujahkan bahawa dia dan Tina kemudiannya mengambil penerbangan ke Malaysia dan setibanya di KLIA, Tina telah memberitahu perayu untuk menunggunya di pintu keluar kerana dia ingin ke tandas. Perayu kemudiannya ditahan semasa dalam perjalanan ke pintu keluar. Perayu juga menghujahkan bahawa apabila pihak polis mendapati dadah tersembunyi dalam P29, perayu dengan segera memberitahu pihak polis bahawa P29
- H bukan miliknya dan membangkitkan pembelaan bahawa dia adalah pembawa tidak bersalah. Pada akhir perbicaraan, hakim bicara mendapati bahawa pembelaan perayu adalah satu rekaan dan penafian semata-mata dan gagal menimbulkan keraguan munasabah ke atas kes pendakwaan. Perayu dengan itu disabitkan atas kesalahan dan dijatuhkan hukuman mati. Oleh itu, perayu
- I merayu. Isu-isu yang timbul adalah (i) sama ada terdapat keraguan ke atas identiti barang kes dadah; (ii) sama ada hakim bicara telah gagal untuk mempertimbangkan kes pembelaan secara kehakiman; (iii) sama ada hakim

bicara terkhilaf apabila gagal menawarkan pembelaan milikan pasif dan (iv) sama ada hakim bicara tersalah arah kerana gagal secara spesifik menggunakan anggapan di bawah s. 37(d).

Diputuskan (menolak rayuan; mengesahkan sabitan dan hukuman)

Oleh Rohana Yusof HMR menyampaikan penghakiman mahkamah:

- (1) Selagi tiada keputusan dalam rantaian keterangan berkenaan pengendalian barangan yang dirampas atau ekshibit-ekshibit dadah, isu identiti dadah tidak akan timbul. Tiada keputusan dalam rantaian keterangan dalam kes ini kerana ia adalah paket plastik *ie*, P16 yang sama yang telah dikenal pasti oleh SP2 dan SP8 dan mereka seterusnya menandakan ekshibit dadah dan mengenalpastinya di mahkamah. Ia juga telah disahkan oleh ahli kimia bahawa ekshibit dadah yang sama yang telah dihantar kepadanya untuk dianalisis. Berdasarkan keterangan di hadapan mahkamah, tiada keputusan dalam rantaian keterangan berkenaan pergerakan ekshibit-ekshibit dadah.
- (2) Perayu mempunyai beberapa peluang untuk memeriksa apa yang diangkut olehnya dalam P29. Hakim bicara telah dengan betul membuat dapatan fakta bahawa P29 ditahan dengan perayu oleh itu, dengan atau tanpa rakaman CCTV milikan telah dibuktikan. SP2 dan SP8 tidak dimaklumkan berkenaan kewujudan Tina semasa siasatan dijalankan. Hakim bicara tidak mempunyai alasan untuk tidak mempercayai keterangan SP2 dan SP8. Hakim bicara telah mempertimbangkan segala isu-isu yang dibangkitkan dalam pembelaan dan tiada alasan untuk campur tangan dengan keputusan yang dibuat yang disokong oleh keterangan dan dengan alasan-alasan munasabah. Pembelaan yang dibangkitkan oleh perayu bahawa dia adalah pembawa tidak bersalah tidak mempunyai merit.
- (3) Hakim bicara boleh meminda atau mengurangkan pertuduhan di bawah s. 167 Kanun Tatacara Jenayah jika atas keterangan satu lagi kesalahan dinyatakan. Bagaimanapun, milikan pasif bukan pembelaan tetapi adalah satu dapatan yang boleh dicapai atas keterangan di hadapan mahkamah. Tiada kekhilafan oleh hakim bicara dalam dapatannya berkenaan pengedaran, dengan itu isu pertuduhan bawah milikan tidak timbul dalam kes ini.
- (4) Kegagalan hakim bicara untuk menyatakan sama ada beliau bergantung kepada anggapan di bawah s. 37(d) Akta dan kepada tindakan terangkan-terangan yang mana satu dalam s. 2 Akta adalah satu salah arah. Walau bagaimanapun, tidak semua salah arah memudaratkan. Atas fakta kes ini, terdapat keterangan yang memadai untuk membuktikan milikan apabila perayu ditangkap dengan beg yang mengandungi dadah tersebut. Perayu dilihat membawa beg itu. Tag bagasi P29 adalah di bawah nama perayu. Ini memadai untuk membangkitkan anggapan milikan dan pengetahuan di bawah s. 37(d) Akta. Keterangan mencukupi bahawa

- A perayu telah membawa beg mengandungi dadah itu dan ini merupakan perbuatan pengedaran di bawah s. 2 Akta. Kegagalan hakim bicara untuk menyatakan dengan jelas dalam penghakimannya berkenaan tindakan terang-terangan yang mana satu, tidak memudaratkan atas fakta-fakta yang terdapat dalam kes ini. Adalah sesuai bagi mahkamah ini
- B melaksanakan kuasa di bawah proviso kepada s. 60 Akta Mahkamah Kehakiman 1964. Oleh itu, walaupun terdapat salah arah, sabitan adalah selamat.

Case(s) referred to:

- Hoh Bon Tong v. PP* [2010] 5 CLJ 240 CA (*refd*)
- C *Lew Wai Loon v. PP* [2014] 2 CLJ 649 FC (*refd*)
- Mamasobri Useng v. PP* [2011] 6 CLJ 377 FC (*refd*)
- PP v. Abdul Manaf Muhamad Hassan* [2006] 2 CLJ 129 FC (*refd*)
- PP v. Abdul Rahman Akif* [2007] 4 CLJ 337 FC (*refd*)
- Tan Ah Tee & Anor v. PP* [1978] 1 LNS 193 HC (*refd*)

Legislation referred to:

- D Courts of Judicature Act 1964, s. 60
Criminal Procedure Code, s. 167
Dangerous Drugs Act 1952, ss. 2, 37(d), 39B(2)
- For the appellant - Rajpal Singh; M/s Rajpal, Firah & Vishnu*
For the respondent - Samihah Ghazali; DPP
- E [Appeal from High Court, Shah Alam; Criminal Trial No: 45A-228-2011]
Reported by Suhainah Wahiduddin

JUDGMENT

- F **Rohana Yusuf JCA:**

Introduction

- [1] The appellant was charged for trafficking in dangerous drugs. The charge preferred against the appellant is as follows:

- G Bahawa kamu pada 21 Februari 2011 jam lebih kurang 10.20 malam, di kawasan tuntutan bagasi F, Balai Ketibaan Antarabangsa, Aras 3, Bangunan MTB, KLIA, di dalam daerah Sepang, di dalam Negeri Selangor telah mengedar dadah berbahaya jenis Methamphetamine seberat 685.9 gram dengan itu kamu telah melakukan satu kesalahan yang
- H boleh dihukum di bawah seksyen 39B(1)(a) Akta Dadah Berbahaya 1952 yang boleh dihukum di bawah seksyen 39B(2) Akta yang sama.

- [2] On 26 September 2014 the High Court at Shah Alam found the appellant guilty of the offence. The appellant was convicted and sentenced to the mandatory death sentence under s. 39B(2) of the Dangerous Drugs Act 1952 (the Act). His appeal came before us on 27 July 2015 which, by a
- I unanimous decision we have dismissed. We now give our reasons for our decision.

The Prosecution's Case

[3] On 21 February 2011 at about 10.20pm the police team conducted a surveillance on passenger flight from Dubai to Kuala Lumpur at the baggage claim area F, the International Arrivals Hall, Level 3 KLIA. During the surveillance, SP2 stopped the appellant who was pulling a luggage bag heading towards the customs inspection area. SP2 later identified him as police and ordered the appellant to scan his luggage bag (exh. P29). The scan did not reveal anything suspicious. The appellant was directed to bring P29 to the pejabat narkotik for further inspection, whereupon a brown plastic packet containing drugs (exh. P16) was found.

[4] All the items found were seized and handed over to the investigating officer (I.O) Inspector Eddy Amin (SP8). Upon analysis, the chemist, Dr Vanitha Kunalan (SP3) confirmed that P16 contained methamphetamine with a net weight of 685.9g.

Findings Of Trial Judge

[5] At the end of the prosecution's case the learned trial judge found a *prima facie* case established. The appellant was found to have exclusive possession, custody and control of the drugs when the evidence of prosecution's witnesses clearly showed that at the time of arrest the appellant was pulling the luggage bag P29. P29 had a luggage tag in exh. P29A bearing the name of the appellant which tallied with the portion of a bag tag that was seized from the appellant. The e-ticket in exh. P30D also showed that the appellant was the person who took the flight from Ghana to Dubai. The appellant was seen restless when asked to go to the pejabat narkotik for further inspection. The appellant's DNA was found together with another two persons on the clothing inside the bag. Premised on all these facts the learned trial judge found that the prosecution has established a *prima facie* case against the appellant and ordered the appellant to enter his defence.

The Defence Case

[6] In his defence the appellant said he was then a student of FTMS College in Kuala Lumpur and was living in Subang. He knew one Tina Tabas through Facebook who later became his girlfriend. When he went to Ghana to attend his mother's funeral on 15 February 2011 he met Tina Tabas for the first time. Tina attended his mother's funeral with another friend known as Cosmos whom the appellant also met for the first time. Cosmos told the appellant that he was a student in Malaysia and was living in Puchong, Selangor.

[7] In Ghana, the appellant stayed at the same hotel with Tina. Tina then decided to follow the appellant back to Malaysia for a short period. The appellant said he saw Cosmos passing the luggage P29 to Tina which she used

A to pack the appellant's clothes. P29 was checked-in under the appellant's name since Tina brought her own luggage but the appellant only had a back pack.

B [8] The appellant and Tina took a flight to Malaysia on 20 February 2011. Upon arrival at KLIA he picked up P29 at the carousel. Tina told the appellant to wait for her at the exit while she went to the toilet. The appellant was then detained at 10.30pm while walking to the exit.

C [9] When the police found the drugs hidden in P29 the appellant said he immediately told the police that P29 did not belong to him but was given by Cosmos to Tina. In other words the appellant raised a defence that he was an innocent carrier.

Findings Of Trial Judge

D [10] At the conclusion of the trial, the learned trial judge found that the defence of the appellant was a mere denial and fictitious and failed to raise a reasonable doubt on the prosecution's case. The name of Cosmos and Tina was never suggested to any of the prosecution's witnesses and was therefore a mere afterthought. The appellant was thus convicted and sentenced to death, hence this appeal.

The Appeal

E [11] Although the petition of appeal contains several grounds of appeal, before us, learned counsel for the appellant submitted that he would highlight only the two following issues:

- F (i) that there were doubts as to the identity of the drugs exhibit; and
(ii) that the learned judge failed to judicially appreciate the defence case.

Identity Of Drug Exhibits

G [12] Counsel for the appellant contended that there were doubts on the identity of drugs exhibit for two reasons. First, there was discrepancy in weight unexplained, and that there was a break or a gap in the chain of evidence as the prosecution did not explain why there were in fact three holes on the package of drugs exhibit when witnesses said they only made two holes.

H [13] The alleged discrepancy in weight arose when the police report by SP2 (exh. P10), borang bongkar (exh. P7), borang serah terima barang kes (exh. P9) and borang POL 31 clearly stated that the gross weight of the drugs seized was 1,000g. The gross weight of the drugs received by the chemist (SP3) was stated as 1,005.60g. There was a clear difference of 5.60g of the drugs seized from the appellant by SP2 and the drugs received by the chemist for analysis from the I.O (SP8).

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[14] Besides the discrepancy in weight the appellant contended, the drugs exhibit had been tampered because there existed three holes on the drug package (P16) but only two were explained. SP2 in his evidence confirmed that he made one hole in P16 and later sealed the hole using a “loytape”. This was further confirmed by SP8 who agreed that SP2 had informed SP8 regarding the hole that SP2 made. SP8 stated in evidence that he made another hole in P16 and later marked it “x” because he wanted to capture the content of P16 in a photograph. When shown in court, the chemist agreed that when she received P16 there were three holes on it, but she did not make any hole herself. SP3 further confirmed that the three holes existed on P16 when it was given to her before it was sent for analysis. There was therefore no explanation by the prosecution as to how the third hole came about. Learned counsel submitted that the discrepancy in weight coupled with unexplained hole on P16 had compromised the identity of the drugs exhibit and that the existence of the unexplained hole could have caused drugs been added into the exhibit.

[15] We agree with the submission by the learned DPP on this issue. Relying on the case of *Lew Wai Loon v. PP* [2014] 2 CLJ 649; [2014] 3 MLJ 325, as long as there is no break in the chain of evidence regarding the handling of the seized items or drugs exhibit then the issue of the identity of the drugs would not arise. There was no break in the chain of evidence in this case because it was the same plastic packet P16 that was identified by SP2 and SP8 who marked the drugs exhibit and identified them in court. It was also confirmed by the chemist that was the same drugs exh. P16, that was sent to her for analysis.

[16] During the trial both SP2 and SP8, nor other members of the raiding team was questioned on how the third hole came into being on the plastic package. The suggestion by learned counsel that there was a possibility of drugs been added into the exhibit is highly improbable. The discrepancy in weight was 5.60g. The gross weight stated by the police was 1,000g. It would not make any sense for the police to add to the exhibit as the weight of drugs exhibit of 1,000g in itself would be sufficient to make out a trafficking charge. Any such aspersion on the police witness should have been put to them in cross-examination so that all these imputations can be explained. In fact as submitted by learned DPP the appellant had never raised the issue on the identity of drugs during the trial. We therefore do not find merits in this ground raised by learned counsel. We agree with the learned trial judge that on the evidence before the court, there was no break in the chain of evidence on the movement of the drugs exhibit.

Defence Not Judicially Appreciated

[17] The appellant in his defence had said that he was in fact an innocent carrier and was given P29 by Tina Tabas who packed the appellant’s clothes into it. The appellant further stated that the P29 was in fact given by Cosmos to Tina. Counsel for the appellant submitted that the failure of the

A prosecution to bring in as evidence the CCTV recording and the flight manifest to prove Tina Tabas's existence casted a serious doubt on the prosecution's case. The appellant therefore submitted that the defence adopted by the appellant is not mere denial and fictitious but a credible one.

B [18] It was also submitted that the defence had also succeeded in proving the existence of Tina Tabas through the existence of a female DNA which was recovered from the clothes (P23A and P25A) found in P29 purportedly worn by Tina Tabas during her stay with the appellant in Ghana. The existence of different sizes of clothes in P29 further strengthened the defence case on the existence of Cosmos where P44A & B (jeans) did not match the
C appellant's size.

[19] As we have earlier alluded to, in essence the defence raised by the appellant was that of an innocent carrier. We do not find merits in this ground because the appellant had every opportunity to check for himself what he was carrying with him in P29 (see *Hoh Bon Tong v. PP* [2010] 5 CLJ 240). The learned trial judge had correctly made a finding of fact that the bag P29 was caught with the appellant thus with or without CCTV recording the fact of possession was proved. According to SP2 and SP8 they were never informed of the existence of Tina in the course of investigation. The learned trial judge had no reason to disbelieve the evidence of SP2 and SP8. The
D learned judge had given consideration to all the issues raised in the defence and we have no reason to intervene with a decision made supported by evidence and with sound reasons.
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Other Issues

F [20] In addition to the above grounds, learned counsel raised issue that the learned judge had erred for failure to offer a defence of passive possession. Learned counsel submitted that the learned judge must do so, despite it was admittedly not canvassed before the trial court. We are not able to appreciate this submission. In our view a trial judge may amend or reduce a charge
G under s. 167 of the Criminal Procedure Code if on evidence another offence is disclosed instead. In any event passive possession is not a defence but it is finding that can be made on evidence before the court. We do not find any error on the part of the learned judge in his findings of trafficking hence the issue of a charge under possession did not arise in this case.

H [21] Learned counsel further contended that there was misdirection by the learned trial judge because at the end of prosecution's case he did not specifically invoke the presumption under s. 37(d) of the Act. He only did so at the end of the defence case. Having done so, the learned judge applied s. 2 to find trafficking by the appellant without specifying which overt act
I under that section did he rely on.

[22] We agree with learned counsel that the learned trial judge did not state specifically in his ground of judgment that he invoked s. 37(d) at the end of the prosecution's case and did not state specifically which overt act of

trafficking under s. 2 was he relying on in convicting the appellant for trafficking. Under s. 2 the overt act of trafficking includes, *inter alia* the act of “carrying”, “transporting” or “exporting”. It would be therefore be necessary to establish which overt act of the appellant constituted trafficking under s. 2 of the Act. The failure of the learned judge to state whether he relied on the presumption under s. 37(d) and on which overt act was he relying upon in s. 2 is a misdirection.

[23] However it is trite that, not all misdirection is fatal. On the facts of this case we agree with the learned trial judge that there was sufficient evidence to establish possession when the appellant was caught with the bag containing drugs. He was seen carrying the bag with him. The luggage tag P29A of the bag P29 was under his name. All these facts would in our view be sufficient to attract the presumption of possession and knowledge under s. 37(d) (see *PP v. Abdul Rahman Akif* [2007] 4 CLJ 337, *Tan Ah Tee & Anor v. Public Prosecutor* [1978] 1 LNS 193; [1980] 1 MLJ 49). On the facts also, the evidence was overwhelming that the appellant was carrying the bag containing drugs which constitute the act of trafficking under s. 2 of the Act. The failure of the learned judge to state clearly in his judgment under which overt act is not fatal on the facts of the present case.

[24] Premised on such overwhelming evidence we find it appropriate for us to exercise the powers pursuant to the proviso to s. 60 of the Courts of Judicature Act 1964 (see *Mamasabri Useng v. PP* [2011] 6 CLJ 377; [2011] MLJU 503). Thus despite misdirection, having given our consideration on the evidence in totality we find the conviction safe (see *PP v. Abdul Manaf Muhamad Hassan* [2006] 2 CLJ 129; [2006] 3 MLJ 193).

[25] We therefore do not find any appealable error committed by the learned judge to warrant our intervention. We dismissed the appeal and affirmed the sentence and conviction by the High Court.

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